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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/833,165

04/11/2001

Craig Rae Fowler

60,130-788

1533

26096

7590

06/30/2004

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EXAMINER

ADDISON, KAREN B

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,165

Applicant(s)

FOWLER ET AL.

Examiner

Karen B Addison

Art Unit

2834

-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/3/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments see pages 2-18 filed 1/26/04, with respect to claims 1-5, and 7-25 have been fully considered and are persuasive. The final rejection of 6/13/03 has been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-5 and 7-25 is rejected under 35 U.S.C. 112, second paragraph, as being Indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "first material" and the phrase "more conductive" is vague and indefinite; Because the conductive material is not specified and the term more conductive is a relative term. How is the first material more conductive than the second material?

Is the material electrically conductive, magnetically conductive, and thermally conductive?

Referring to claims 2 and 8

The phrase "conductive material form of plastic" is vague and indefinite; because plastic is well known material for insulating not conductive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston (6232681).

As best understood, Johnston shows a motor in fig.1-5 comprising: a stator body having a solid core (22) formed of a first material made of powder metal / Thermo-plastic with a plurality of circumferentially spaced portions (25) having a second material consisting of plastic at an outer peripheral surfaces, and a conductive material (21) is deposited between the teeth (23) over the insulating layer that's more conductive than the first material. Wherein, the insulating material (thermo-plastic) is place around the circumferentially spaced teeth, and a conductive material (copper winding) deposited between the teeth.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston (6232681) in view of Schmidt (5517070)

Johnston substantially teaches the claim invention: however does not show an vehicle component movable between a plurality of operational position relative to a fixed component movable between a plurality of operational position relative to a fixed component between the operation position between the stator and rotor cooperating to drive the motor of the output shaft and a closer member fixed to a frame.

Schmidt teaches vehicle component fig.1 comprising: an electric motor having a vehicle component (sunroof not shown) movable between a plurality of operational positions relative to a fixed component (2) driving by an AC motor wherein the output shaft (3) is coupled to the vehicle component between the operation position between the stator (13) and rotor (33) cooperating to drive the motor of the output shaft (14) with a gear assembly (32) coupled to the closer member (window see col.2 line 1-3) fixed to a frame for the purpose of driving the closes member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the electric motor of Johnston with the teaching of Schmidt electric motor for the purpose driving an electromotive window.

Referring to claims 3,9, and 20, little patentable weight has been given to the method of manufacturing limitations (i. e. co-extrusion and) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the

same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Referring to claims 16 and 19 the selection of a known material based upon its suitability (i.e. Ferro- plastic, nylon filled plastic) for the intended use is a design consideration within the ordinary skill in the art. *In re Ileshin*, 227 F.2d 197, 125 USPQ 416 (CCP 1960).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen B Addison whose telephone number is 571-272-2017. The examiner can normally be reached on 8:00 to 4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2204. The fax phone number for the organization where this application or proceeding is assigned is 571-272-2204.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 2834

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KBA
June 28, 2004


BURTON S. MULLINS
PRIMARY EXAMINER